

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES)	
)	
v.)	No. 18 CR 512
)	
EVAN J. MUSIKANTOW,)	Hon. Harry D. Leinenweber
)	
)	

**MOTION TO COMPEL PRODUCTION OF SUBPOENAED MATERIAL
APPLE AMERICAN GROUP**

Now comes the Defendant, Evan J. Musikantow, by and through his attorney, Jeffrey J. Levine and for his Motion to Compel Production of Subpoenaed Material, states as follows:

1. On or about November 9, 2001, a multimillion dollar sale of numerous restaurant franchises and hotel properties occurred. The purchaser, Apple American Group, LLC, purchased Appleby Restaurant franchises in Delaware, Indiana, New Jersey and Ohio and other properties. The sellers of the properties included Allen S. Musikantow, his son Evan Musikantow and other individuals and entities.

2. The sale included millions of dollars of properties owned and controlled by Evan J. Musikantow

3. Thereafter, the sellers, including Evan J. Musikantow, were directed to put the proceeds of the sale into trust for tax purposes. Evan J. Musikantow had also set up irrevocable trusts for the benefit of his children, for purposes of their education. The trusts for his two children, each contained approximately \$200,000.00.

4. Since the November 9, 2001, sale of the family businesses, Evan J. Musikantow has not had access to any of the proceeds of the trusts, nor have his children had any benefit from the

irrevocable trusts created for purposes of funding their education.

5. Evan J. Musikantow is charged in the instant case with a felony for willfully avoiding child support obligations ordered in his divorce case pending in Cook County, Illinois, in violation of 18 U.S.C. § 228(a)(3).

6. In December of 2021, Mr. Musikantow issued a subpoena to Apple American Group, the purchaser of the properties seeking to obtain, among other things, the “closing book” which should contain a listing of the assets sold and demonstrate where payment for the properties was directed. The subpoena was returnable in January of 2022.

7. Since that time, counsel for Defendant Mr. Musikantow has been attempting to obtain the records, subsequently identified as the following from the index of the “closing book:”

Documents 1-30 and 131.

Protective Order

8. Thereafter, counsel for the Apple American Group requested that, prior to providing the requested documents, this Court enter a Protective Order with regard to the materials. In order to expedite the receipt of the materials, counsel for the Defendant provided counsel for the Apple American Group a draft Protective Order and on August 24, 2022, counsel for the Defendant filed a Motion seeking for the Court to consider the draft order. *See*: Dkt. No. 118. Counsel for Defendant also forwarded the draft order to government counsel seeking to determine whether the government had objections to the draft order.

9. On or about September 16, 2022, in a conference with government counsel, said counsel advised Defendant’s counsel that the government objected to the entry of such an order as counsel did not believe such an order was required.

10. On September 20, 2022, counsel for Defendant advised counsel for Apple American

Group that, as government counsel could not agree to the entry of the order, Apple American Group should seek the entry of any protective order.

11. Thereafter, on September 21, 2022, this Court entered the draft order. *See*: Dkt. No. 121.

12. On that date, government counsel contacted Defendant's counsel and advised that the Court had entered the order, subsequent to his advising Defendant's counsel that he did not agree to the entry of the order.

13. Therefore on September 22, 2022, counsel for Defendant prepared and filed a Motion to Vacate the Protective Order. *See*: Dkt. No. 122. On September 26, 2022, this Court granted the Motion and vacated the previously entered protective order. *See*: Dkt. No. 123.

14. As Defendant Evan J. Musikantow has not sought a protective order and merely seeks disclosure of the subpoenaed material, he seeks this Court to enter an order compelling the Apple American Group, LLC, to provide the materials so that they may be forwarded to Defendant's experts.

Wherefore, for all the above and foregoing reasons, Defendant Evan J. Musikantow prays that this Court order Apple American Group, LLC to produce the materials requested in his subpoena and for such further relief as this Court deems just and equitable.

Respectfully submitted,

/s/ Jeffrey J. Levine
JEFFREY J. LEVINE
Attorney for Defendant,
Evan J. Musikantow

JEFFREY J. LEVINE
19 South La Salle Street
Suite 702
Chicago, Illinois 60603
(312) 372 - 4600

Dated: September 26, 2022